

§ 1118.3

16 CFR Ch. II (1–1–08 Edition)

compulsory process provided for in these rules, and/or taking other suitable legal action. If the person or agent in charge refuses to accept the notice upon its presentation, the officer or employee may affix the notice to a public entrance way on the premises and this shall constitute presentation of the notice.

§ 1118.3 Compulsory processes and service.

(a) In addition to or in lieu of authorizing the issuance of a notice, the Commission may elect either to seek an ex parte search warrant and/or use any other reasonable means authorized by law to initiate investigations, inspections, or inquires to obtain information for the purposes set forth in § 1118.1(a), including but not limited to the following compulsory processes:

- (1) Subpoenas;
- (2) Investigational hearings;
- (3) Depositions; and
- (4) General or special orders.

(b) Service in connection with any of the compulsory processes in § 1118.3(a) shall be effected:

(1) By personal service upon the person or agent in charge of the firm being investigated, inspected or inquired of; or

(2) By certified mail or delivery to the last known residence or business address of anyone being investigated, inspected or inquired of; or

(3) In the case of general or special orders where personal service, mailing or delivery has been unsuccessful, service may also be effected by publication in the FEDERAL REGISTER.

(c) The date of service of any form of compulsory process shall be the date on which the document is received by mail, delivered in person or published in the FEDERAL REGISTER. In computing a period of time in which a party is required or permitted to act, the day from which the time begins to run shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday or legal holiday.

(d) These rules shall be referred to in any notice of compulsory process served upon a person or firm.

(e) Anyone submitting information in response to any of the compulsory processes referred to in § 1118.3(a) should state whether any of the information submitted is believed to contain or relate to a trade secret or other matter which should be considered by the Commission to be confidential in accordance with section 6(a)(2) of the Consumer Product Safety Act (15 U.S.C. 2055(a)(2)) and whether any of the information is believed to be exempt from disclosure by the Commission under the provisions of the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations under that Act, 16 CFR part 1015 (42 FR 10490, February 22, 1977) or as amended. Any claim of confidentiality must be in writing, and any request for exemption from disclosure must be made in accordance with the Commission's Freedom of Information Act regulations, 16 CFR part 1015 (42 FR 10490, February 22, 1977), or as amended.

§ 1118.4 Subpoenas.

The Commission may issue to any person or firm a subpoena requiring the production of documentary evidence (subpoena duces tecum) and/or attendance and testimony of witnesses (subpoena ad testificandum) relating to any matter under investigation. Procedures regarding compliance with subpoenas and motions to limit or quash subpoenas are provided for in § 1118.9.

§ 1118.5 Investigational hearings.

(a) The Commission by subpoena may require any person or firm to provide information at an investigational hearing. These hearings shall be for the purpose of taking the testimony, under oath, of witnesses and receiving documents and other data relating to any subject under investigation. The hearings shall be presided over by the Commission, by one or more of the Commissioners, by an administrative law judge, or by a duly designated officer or employee, who shall be referred to as the presiding official. The hearings shall be stenographically reported, and the transcript shall be made a part of the record.